

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

X

THOMAS M. MORAN,

Plaintiff

CIVIL ACTION

NO. 1:19-CV-03079-AT

VS.

MTA METRO-NORTH RAILROAD COMPANY,
PO NICHOLAS STRYPE (individual capacity),
PO DOUGLAS COHEN (individual capacity), PO LUIGI
SEIDITA (individual capacity), PO JASON NANDOO
(individual capacity), PO JOSEPH TERACCIANO
(individual capacity), and PO RICHARD DOE (Full names
and number of whom are unknown at present, and other
unidentified members of the MTA Police Department in
their individual capacities),

Defendant

JULY 22, 2022

X

THE PARTIES' VOIR DIRE QUESTIONS

PLAINTIFF'S PROPOSED VOIR DIRE QUESTIONS

The plaintiff herewith submits his proposed Jury Voir Dire.

1. Does any juror think, if for some reason you disagree with my instructions as to what the law is, that you will not be able to put your belief aside and follow my instructions as to what the law is that should be applied to this case?

2. Does any juror, relative or friend know or think they know the plaintiff, Thomas Moran?

3. [List defendants] Has any juror, relative or close friend, ever been employed by the defendant railroad, or had any prior dealings with the defendant, that might make it difficult for you to reach a fair and impartial verdict?

4. Has any juror ever travelled on a train owned or operated by Metro-North Railroad Company et al, and, if so, was there anything about your experience that would make it difficult for you to be fair and impartial?

5. The plaintiff is represented by George J. Cahill, Jr., Esq. and Scott E. Perry, Esq. of the law firm Cahill & Perry P.C. located in New Haven, Connecticut. Does any juror know, or has any juror had any dealings, directly or indirectly, with Mr. Perry or Mr. Cahill or any member of their law firm or family?

6. Defendant Railroad is represented at this trial by Steve S. Efron, Esq. and Renee L. Cyr, Esq. Does any juror know, or has any juror had any dealings, directly or indirectly, with the above-named attorneys or any member of their families or law firm?

7. In addition to the parties, the following persons may be called as witnesses or mentioned during the trial:

[List of witnesses from Pretrial Memorandum]

Does any juror know or think they know any of the persons listed above? Has any juror, or family member or close friend, had any dealings with any of the persons listed above?

8. Have you, any relative or close friend either as an individual or in the course of business, ever been a plaintiff or defendant to any lawsuit? (Anything about your or their experience that would make it difficult for you to be fair and impartial?)

9. Has any juror ever served as a trial juror in either the state or federal courts? When and where? Was it a civil or a criminal case? Did you have the benefit of hearing the court instruct the jury on the law that applied to that case? Did the jury reach a verdict? Did the judge comment on the verdict?

10. Has any juror, relative or close friend ever appeared as a witness at any state or federal trial, or before a grand jury, a congressional or state legislative committee, a licensing authority or a governmental agency? (Anything about your or their experience that would make it difficult for you to be fair and impartial?)

11. Is any juror, relative or close friend employed by a lawyer, law firm, or engaged in the practice of law? (Anything about your or their experience that would make it difficult for you to be fair and impartial?)

12. Is any juror, relative or close friend a doctor, or has any juror, relative or friend studied the practice of medicine? (Anything about your or their experience that would make it difficult for you to be fair and impartial?)

13. Is any juror, relative or close friend an employee of a company that settles or investigates personal injury claims as part of its business? (Anything about your or their experience that would make it difficult for you to be fair and impartial?)

14. Has any juror, relative or close friend ever brought a personal injury claim? Briefly elaborate. Did the injury occur to you? Did the claim involve injuries at work? (Anything about your or their experience that would make it difficult for you to be fair and impartial?)

15. Does any juror have a strong view, one way or the other, about lawsuits, and awarding money damages?

16. Without having heard any evidence or the law that applies to this case do you have a limit on the amount of money you could award as damages?

17. Does any juror have the slightest doubt, for any reason whatsoever, that he or she will be able to keep an open mind throughout these proceedings; and serve conscientiously, fairly, and impartially in this case; and render a true and just verdict without fear, favor, sympathy, prejudice, and according to the law as it will be explained?

18. Are there some types of lawsuits you do not like or believe in?

19. Do you think there is anything about your own personal life experience, or the experience of a relative or close friend, that would make it difficult for you to be a fair and impartial juror in this case?

DEFENDANTS' PROPOSED VOIR DIRE QUESTIONS

Defendants submit the following questions to be asked of prospective jurors on voir dire:

General Background

1. I have introduced you to the parties and the attorneys in this case and have read a list of witnesses and other individuals involved in this case. Do you know any of these parties, witnesses or attorneys? If so, how do you know them?

2. To your knowledge, does any member of your family or household, or do any of your friends, know any of the parties, witnesses, or attorneys in this case? If so, how do they know them?

3. Do you know any of the other potential jurors in this case? If so, how do you know them?

4. Have you ever sat on a jury before? If so, was the action civil or criminal? Was the case in state or federal court? Did you deliberate? Did you reach a verdict?

5. What is the highest level of education you have achieved? What degrees, licenses or certificates have you earned?

6. Have you ever served in the armed forces? If so, what branch, when and for how long? What were the circumstances of your discharge?

7. Were you born in the United States, or are you a naturalized citizen? If you were not born in the United States, what country were you born in? When did you immigrate to the United States? When did you become a citizen?

8. Are you currently employed? If not, what was your most recent job and how do you currently spend your time?

9. If you are currently employed, where are you employed, with whom and for how long? What are your job responsibilities? Are you a salaried employee or are you paid by the hour?

10. What job, if any, did you hold prior to your current job? For whom did you work and for how long? What were your job responsibilities? Were you a salaried employee or were you paid by the hour?

11. Are you, or have you ever been, a member of a union? If so, please describe your involvement.

12. How long have you lived at your current address? If you have lived there for less than three years, where did you live before that?

13. Do you currently live in an apartment, a house, a co-op, a condominium or in some other type of housing? If you have lived there for less than three years, what type of housing did you live in before that?

14. Do you currently share your home with anyone else? If so, with whom and what is your relationship to them, if any? What is/are their ages?

15. Are you married or in a domestic partnership? If so, does your spouse or domestic partner work? If not, has your spouse or domestic partner worked in the past?

16. If your spouse or domestic partner works, or has worked in the past, where and for whom do they work? What is your spouse's or domestic partner's title and job responsibilities?

17. Do you have any children? If so, how many and what are their ages?

18. Do any of your children work full time? If so, for whom do they work? What are their titles and job responsibilities?

19. Are your parents still living and if so, are they employed?

20. For whom did, or do, your parents work? What are their titles and job responsibilities?

21. Do you have any siblings? If so, how many and are any of them employed?

22. If your siblings are employed, for whom do they work? What are their titles and job responsibilities?

23. If you currently live with someone other than a spouse, domestic partner, child, parent, or sibling, where does that person work? What is that person's title and job responsibilities?

24. To your knowledge, have your spouse or domestic partner, children, parents or siblings ever been a member of a union? If so, please describe their involvement.

Knowledge of/Attitudes Toward the MTA

[The plaintiff objects to all the following questions re: MTA since the MTA is not a defendant in this case. The plaintiff is fine to the extent Metro North is substituted for the MTA]

[Defendant's respond: The MTA is an entity involved in the case for three reasons. First, because the MTA Police officers are employed by the MTA; second, because Metro-North is a subsidiary agency of the MTA; and third, because any proof regarding whether those officers were agent of Metro-North necessarily involves proving that Metro-North contracts with the MTA for police services. Any potential juror conflict or bias concerning the MTA will directly impact the individual defendants as well as Metro-North.]

25. Have you ever heard of the Metropolitan Transportation Authority? If so, do you have any opinions about the Metropolitan Transportation Authority, which I will be referring to as the MTA?

26. Have you ever heard of the Metro-North Commuter Railroad? If so, do you have any options about the Metro-North Commuter Railroad, which I will be referring to as Metro-North?

27. Have you ever used the facilities or services of the Metro-North or the MTA? If so, how often? Overall, have your experiences been positive or negative?

28. Have you ever worked for, or applied to work for, the Metro-North or the MTA? If so, please describe your experience.

29. To your knowledge, have any of your friends or relatives ever worked for, or applied to work for, the Metro-North or the MTA? If so, please describe what you know of their experience.

30. Have you ever worked for, or applied to work for, the New York City Transit Authority, the Manhattan and Bronx Surface Transit Operating Authority, the Staten Island Rapid Transit Operating Authority, the Long Island Railroad, or MTA Bus? If so, please identify the agency and describe your experience.

31. To your knowledge, have any of your friends or relatives ever worked for, or applied to work for, the New York City Transit Authority, the Manhattan and Bronx Surface Transit Operating Authority, the Staten Island Rapid Transit Operating Authority, the Long Island Railroad, or MTA Bus? If so, please identify the agency and describe the jobs held or applied for.

32. Have you ever been employed by, or applied to be employed by, any city, state or federal government, office, or agency? If so, please identify the employer and describe.

33. To your knowledge, have any of your friends or relatives ever been employed by any city, state or federal government, office, or agency? If so, please identify the employer and describe.

34. Have you ever worked for any company that provides, or is involved in the provision of, transportation services? If so, please identify the employer and describe the job you held.

35. To your knowledge, have any of your friends or relatives ever worked for any company that provides, or is involved in the provision of, transportation services? If so, please identify the employer and describe.

36. Have you ever worked in civil service or for a government or government agency? If so, who was your employer at that time? What was your job title? What were your job responsibilities? Please describe your experience at that job.

37. Do you think a government agency should be held to a higher degree of responsibility than a private employer? A lower degree of responsibility? Please explain if either answer is yes.

38. Have you ever filed a notice of claim against the Metro-North or the MTA or any government agency? If so, please explain.

39. Have you ever sustained an injury or been the victim of a crime while using the facilities or services of the Metro-North or the MTA? If so, please describe the circumstances.

40. Some of the events related to this case occurred in Grand Central Terminal. Have you ever been to Grand Central? If so, how often have you been there?

Workplace Injury

41. Have you ever been injured on the job or at your workplace? If so, what was the nature of the injury? Did you file for Workers' Compensation benefits? If you did file, were you awarded benefits?

[Plaintiff objects to 41 and 42 because mentioning "workers' compensation" to the potential jurors without making it clear the plaintiff is not permitted to obtain any workers' compensation benefits for his on the job injury is misleading and confusing in that it could lead them to believe the plaintiff may have recovered or may have the right to recover workers' compensation benefits. If workers' compensation is mentioned, the plaintiff requests that the jury be informed that the plaintiff's only basis to recover monetary damages for his lost wages, benefits, and pain suffering and mental anguish from this incident while working for Metro North is governed by federal law under the Federal Employers' Liability Act and he does not have any workers' compensation benefits and cannot seek recovery under any workers' compensation system.]

42. To your knowledge, has one of your relatives or friends ever been injured on the job or at their workplace? If so, what was the nature of the injury? Did that person file for Workers' Compensation benefits? If they did file, were they awarded benefits?

Knowledge of/Attitudes Towards Law Enforcement

43. Do you have any training in the fields of law enforcement or security? What was that training? When?

44. Have you ever worked in law enforcement, for a law enforcement agency or for a security company, whether as an officer or in a support position? If so, please describe the position and your job responsibilities. Did you enjoy that work?

45. If you have ever worked, applied to work, or have been trained in law enforcement or security, how do you think that experience might affect you in this case? Why?

46. Has someone you live with, a relative or a friend ever worked in law enforcement, for a law enforcement agency or for a security company? If so, please describe.

47. If someone you know has worked in law enforcement or security, how do you think your knowledge of their experiences might affect you in this case? Why?

48. Do you think you might trust the testimony of a police officer any more than that of someone who is not a police officer? Would you trust a police officer's testimony less than that of someone who is not a police officer? If yes to either question, why?

Attitudes Towards Crime and Police

49. Have you ever considered yourself to be a victim of violence? If so, please explain. Did you report this to the police? Why or why not?

50. To your knowledge, have any of your relatives or friends ever considered themselves a victim of violence? If so, please explain. Did they report this to the police? Why or why not?

51. Have you ever been arrested, detained, or questioned by the police or another security force? If so, please explain outside the presence of other potential jurors.

52. To your knowledge, have any of your relatives or friends ever been arrested, detained or questioned by the police or another security force? If so, please explain outside the presence of other potential jurors.

53. Have you ever filed criminal charges against someone? If so, please explain outside the presence of other potential jurors. Was that person arrested? Were they convicted?

54. To your knowledge, have any of your relatives or friends ever filed criminal charges against someone? If so, please explain outside the presence of other potential jurors. Was that person arrested? Were they convicted?

55. Have you ever been a witness in a criminal case? If so, please explain outside the presence of other potential jurors.

56. To your knowledge, have any of your relatives or friends ever been a witness in a criminal case? If so, please explain outside the presence of other potential jurors.

Personal Interests

57. What are your interests and/or hobbies outside of work?

58. Do you engage in any volunteer work? If so, what organizations do you volunteer for? What is the nature of the volunteer work you perform? Approximately how many hours a month do you spend volunteering? How long have you been volunteering?

59. Are you a member of any organizations, whether social, professional, religious or political? What is the nature of those organizations? How long have you been a member?

60. Do you watch television? If so, what television shows do you watch?

61. What types of movies, if any, do you enjoy?

62. Do you regularly read any newspapers or magazines? Which ones? How often do you read them? Do you read them in hard copy or online?

63. Do you enjoy reading books? What types of books do you enjoy most, or read most often?

64. Do you listen to any radio programs or stations regularly? If so, which ones?

65. Do you listen to any podcasts regularly? If so, which ones?

66. Do you read any blogs or electronic newsletters regularly? If so, which ones? How often do you read them?

67. Do you have a blog or website? If so, what it is about? How often do you post or update it?

68. What websites, if any, do you regularly visit?

69. Do you use social media? How often? Do you have a Twitter, Facebook or Instagram account?

Involved in Litigation

70. Have you, or any relatives or friends, ever been a party to a lawsuit? If so, please describe the suit.

- (a) Were you (or your relative or friend) suing or being sued?
- (b) Who was the other party?
- (c) If you were the plaintiff, what made you decide to sue?
- (d) How long ago was the suit filed?
- (e) Is the matter resolved yet?
- (f) How long ago was it resolved?
- (g) What was the outcome?
- (h) How did you feel about the outcome?
- (i) How did it affect you?

71. Have you, or has a relative or friend, ever testified in a legal proceeding? If yes, what were the circumstances? How did you feel about that experience?

72. Was there anything about your experience(s) that left you with any kind of feeling about the legal profession or the court system? Can you tell us more about that?

Attitude Toward People Who Are Involved in Litigation

73. Do you think that someone who is named as a defendant in a lawsuit has to have done something wrong to be brought into court?

74. Do you think that people who start lawsuits are entitled to compensation for their efforts?

75. Do you have concerns about giving people financial compensation for injuries they have suffered? What are they and why do you have such beliefs?

76. Do you think it is appropriate for a jury to give someone money even if they have not suffered any financial, emotional, or physical harm? Why or why not?

77. Do you think it is appropriate for a person to seek money from a government agency or the employee of a government agency? Why or why not?

78. Do you think it is appropriate for a jury or court to order a government agency or the employee of a government agency to pay money to a private individual? Why or why not?

Role of Court and Jurors

79. In a civil action such as this, it is proper to find that a party has succeeded in carrying their burden of proof on an issue of fact if, after consideration of all the evidence in the case, the jurors believe that what is sought to be proved on the issue is more likely true than not true. Do you believe you are capable of weighing the evidence and making such a determination?

80. One of a juror's responsibilities is to assess the credibility of witnesses. Do you believe you are capable of assessing the credibility of a witness, of determining whether or not that witness is telling the truth?

81. I will instruct you as to the law relevant to the case. Can you follow the law as I will instruct you at the conclusion of the trial, regardless of whether or not you agree with what that law is?

Respectfully submitted,

FOR THE PLAINTIFF,

By /s/ George J. Cahill, Jr.

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CERTIFICATE OF SERVICE

I hereby certify that on July 22, 2022, a copy of the foregoing document was filed electronically. Notice of this filing will be sent by e-mail to all parties by operation of the Court's electronic filing system or by mail to anyone unable to accept electronic filing as indicated on the Notice of Electronic Filing. Parties may access this filing through the Court's CM/ECF System.

/s/ George J. Cahill, Jr.

George J. Cahill, Jr.